

NEWPORT BEACH ZONING ADMINISTRATOR MINUTES
100 Civic Center Drive, Newport Beach
Corona del Mar Conference Room (Bay E-1st Floor)
Thursday, July 25, 2013
REGULAR HEARING
3:30 p.m.

A. CALL TO ORDER – The meeting was called to order at 3:30 p.m.

Staff Present: Brenda Wisneski, Zoning Administrator
Fern Nueno, Associate Planner
Melinda Whelan, Assistant Planner
Rosalinh Ung, Associate Planner

B. MINUTES of July 11, 2013

Action: Approved as amended.

C. PUBLIC HEARING ITEMS

ITEM NO. 1 Marigold Parcel Map No. NP2013-011 (PA2013-120)
604 Marigold Avenue

CD 6

Fern Nueno, Associate Planner, provided a brief project description stating that the subject property is zoned for two units, the existing duplex was demolished, and a new duplex is under construction. She continued that the parcel map is for condominium purposes and if approved will allow each unit to be sold separately. She indicated that facts in support of the required findings were provided in the draft Resolution.

Applicant Paul Craft of Apex Land Surveying on behalf of property owners Ramin and Setareh Afshar, stated that he had reviewed the draft resolution and the required conditions and had no comments or questions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, spoke and stated that the draft Resolution includes a finding where the Zoning Administrator determined the parcel map to be consistent with the legislative intent of Title 20, but does not include facts in support or anything guiding the Zoning Administrator to make that determination.

There were no other public comments and the Zoning Administrator closed the public hearing.

Zoning Administrator Wisneski noted that the duplex was under construction and was being constructed in compliance with the requirements for condominiums. The Zoning Administrator approved the item.

Action: Approved

ITEM NO. 2 Goldenrod Parcel Map NP2013-012 (PA2013-121)
412 Goldenrod Avenue

CD 6

Fern Nueno, Associate Planner, provided a brief project description stating that the subject property is zoned for two units, the existing duplex was demolished, and a new duplex is under construction that meets Municipal Code requirements. She continued that the parcel map is for condominium purposes. She indicated that facts in support of the required findings were provided in the draft Resolution.

Applicant Paul Craft of Apex Land Surveying on behalf of the property owner Scott A. Gould, stated that he had reviewed the draft resolution and the required conditions and had no comments or questions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, spoke and stated that the previous comments on Item No. 1 also apply to this item. Additionally, Mr. Mosher commented on Finding K in the draft Resolution regarding a finding of consistency with the Coastal Act. He stated that the City is in the process of getting a certified Coastal Program, but does not have one yet. He does not believe that the City can make the finding of consistency and that it should be done through a Coastal Development Permit.

There were no other public comments and the Zoning Administrator closed the public hearing.

Zoning Administrator Wisneski stated that regarding the Title 20 finding, the Zoning Administrator must ensure that the project meets the development standards of the Zoning Code. Ms. Wisneski noted that the duplex was under construction and meets the requirements of Title 19. The Zoning Administrator approved the item.

Action: Approved

**ITEM NO. 3 Red O Minor Use Permit No. UP2013-009 (PA2013-109)
143 Newport Center Drive**

CD 5

Melinda Whelan, Assistant Planner, provided a brief project description stating that the proposed restaurant required a minor use permit to operate with an alcohol beverage license within Fashion Island at a newly constructed site. Ms. Whelan addressed zoning and operational characteristics, including the closing time of 2:00 a.m. with a piano bar and mood music ending at 1:00 a.m, two outdoor dining areas and a alcoholic beverage license (ABC License Type C-47 – Full Liquor), all of which were reviewed by the Police Department who had no objections. Ms. Whelan explained that the Police Department provided specific conditions including the requirement for an operator's license since the restaurant would be open past 11:00 p.m. which were included in the draft resolution. Ms. Whelan continued that there were facts in support of the required findings and that staff was recommending approval of the minor use permit subject to the conditions found in the draft resolution.

Applicant Mike Recupero of Recupero and Associates, Inc., on behalf of the Red O, stated that he had reviewed the draft resolution and the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, made comments to the draft resolution stating the outdoor dining patios should be changed to "Two" under the statement of facts and under the CEQA section; for clarification purposes Finding D.5 on page 5 should correspond with Condition No. 15; referenced a few typographical errors; and that a few of the Police Department recommendations had been left out of the conditions in the draft resolution.

There were no other public comments.

Zoning Administrator Wisneski asked staff to respond to Mosher's comments and Ms. Whelan stated that the Police Department recommendations were inadvertently left out and would be added to the conditions of approval. Zoning Administrator Wisneski further explained that the aforementioned errors in the draft resolution would be corrected and verified that the applicant concurred with these changes to the resolution. The Zoning Administrator then took action to approve the revised resolution approving Minor Use Permit No. UP2013-009.

Action: Approved as amended.

**ITEM NO. 4 Girl Scouts Leadership Center Minor Use Permit No. UP2013-010 (PA2013-128)
200 18th Street, East Side of 18th Street and North of Balboa Boulevard CD 1**

Rosalinh Ung, Associate Planner, provided a brief project description stating that the proposed minor use permit is to allow for the operation of a new Girl Scouts facility located at the northwest corner of the future Marina Park facility.

Ms. Ung provided project background in that the City Council certified the Final Environmental Impact Report (FEIR) for the Marina Park project and the approval of a new Girl Scouts facility in May 2010. In addition to the mandatory environmental impact analysis, the FEIR also addressed the parking demand and identified parking management alternatives for the entire project including the Girl Scouts facility. The City Council also approved the site plans for the 3-phase development of the Marina Park complex which include the building location, footprint, and setbacks for the Girl Scout facility. The Girl Scout building height and architectural design have also been considered by the City Council. The Girl Scouts of Orange County entered into a ground lease agreement with the City for the new facility on June 25, 2013. The Girl Scouts has non-exclusive use of the Marina Park parking lot located to the south of the Girl Scouts facility and will operate under a parking management plan that has been prepared and approved as part of the ground lease agreement.

Ms. Ung stated that the proposed use requires a minor use permit pursuant to the Zoning Code as the proposed building is designed as an assembly/meeting facility where classes, group meetings, and gatherings would be held and recommended approval of the Minor Use Permit subject to the conditions of approval with minor changes to Conditions 2 and 5.

The applicant, Christine Shingleton on behalf of the Girl Scouts of Orange County, stated that she had reviewed the draft resolution and the required conditions. Ms Shingleton agreed to the conditions of approval and the proposed changes made by staff to Conditions 2 and 5, and requested changes to the indemnification language contained in Condition 12.

The Zoning Administrator opened the public hearing.

A member of the general public inquired about the parking location for the Girl Scouts facility.

The Zoning Administrator referenced the site plan that shows various parking locations that are available for the Girl Scouts and Marina Park facility and stated there is no designated parking area for the Girl Scouts facility.

Ms. Ung provided a color site plan illustrating the Marina Park parking lots and the entry points to the park and the Girl Scouts facility, and stated that these parking lots are controlled and payable.

Mr. Jim Mosher commented on the draft resolution. He questioned if the word "Parks" in Finding A.2 should be "Park"; "liability" instead "liable" in Findings E.1; "near" instead of "at" in Findings E.2; the level of activities for the new facility compared to the existing facility as stated in Finding E.2; Condition 9 as it pertains to signage requirement; covered trash enclosure requirement in Condition 10; a grammatical error in Condition 15; location of fire line in Condition 16; "manufacturer" instead of "manufacture" in Condition 17; and the use of "Knox Box" stated in Condition 18.

The Zoning Administrator addressed Ms. Shingleton's requested changes to Condition 12 by stating that the language in this condition is for the use permit application and should not be modified as it is specifically related to the City's issuance of the Use Permit (i.e., entitlement process, CEQA determination, etc.) and not to the lease indemnification terms regarding the actual use of the facility. They are separate and distinct and it is not appropriate to include a reference to the lease term as a condition of approval.

Ms. Leonie Mulvihill, Assistant City Attorney, acknowledged the concerns from the applicant regarding the indemnification language stated in Condition 12. However, she agreed that there should be no changes to

this condition as it is applicable to the Use Permit entitlement while the lease agreement between the City and applicant has separate language that address the applicant's concerns and should be kept separate.

Ms. Nancy Nygren of the Girl Scouts of Orange County addressed Mr. Mosher's comments regarding the existing operation of the Girl Scouts facility compared to the new facility. She confirmed the existing facility is predominately used by the girl scouts. This facility is the most popular facility in Orange County and the use of the new facility will be similar to the existing facility. Ms. Nygren agreed to Condition 15 pertaining to the use of the kitchen and then requested some flexibility on the provision of the electronic emergency lock system instead of a "Knox Box" as stated in Condition 18.

There were no other public comments. The Zoning Administrator closed the public hearing.

The Zoning Administrator commented on the proposed Girl Scouts facility in that it has been considered as part of the FEIR. The building usage and types of operation that will be occurring at the proposed facility are consistent with the activities that are occurring at the existing facility, but in a different scale. The Zoning Administrator determined that the building design, its usage and parking allocation have properly been addressed.

The Zoning Administrator commented on the proposed changes to the draft resolution and instructed staff to correct typographical error in Finding A2, delete "or liable cause" in Finding E.1, and change "at" to "near" in Finding E.2. With regard to the conditions of approval, the trash enclosure shall be covered for water quality purposes in Condition 10. Changes to Conditions 2 and 5 shall be incorporated as discussed. A correction to Condition 17 shall be made to state "manufacturer" instead of "manufacture". Condition 18 shall be modified to add "such as" at the end of the first sentence. The Zoning Administrator then took action and approved Minor Use Permit No. UP2013-010.

Action: Approved as amended.

D. PUBLIC COMMENTS ON NON-AGENDA ITEMS

A member of the public, Mr. Jim Mosher, commented that there were two development agreements due for review by the Zoning Administrator. In response to Mr. Mosher's comments the Zoning Administrator stated that the review of development agreements for Fletcher Jones Motor Cars and Newport Harbor Lutheran Church are tentatively scheduled for public hearing.

ADJOURNMENT

The hearing was adjourned at 4:15 p.m.

The agenda for the Zoning Administrator Hearing was posted on July 19, 2013, at 3:30 p.m. in the Chambers binder located inside the vestibule of the Council Chambers at 100 Civic Center Drive and on the City's website on July 19, 2013, at 3:45 p.m.

Brenda Wisneski, AICP, Zoning Administrator

August 15, 2013, Zoning Administrator Agenda Comments

Comments submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item B: Minutes of Month July 25, 2013

Suggested corrections to passages in *italics* are shown in ~~strikeout~~ underline format.

1. Page 3, paragraph 6: "*A member of the general public inquired about the parking location for the Girl Scouts facility.*" I haven't had a chance to review the audio minutes, but I seem to recall that at some point in the hearing (although perhaps not at this point) the couple in attendance, who I believe identified themselves as residents from across Balboa Boulevard, expressed additional concerns about the general intensification of use, reasoning that what they thought was a doubling in size compared to the existing facility would lead to significantly increased use, trips and activity and thereby create a disturbance to neighbors. I remember they also questioned the safety of the fire ring, but did so after the hearing had ended.
2. Page 3, line 3 from end: "*They are separate and distinct and it is not appropriate to include a reference to the lease ~~term~~ terms as a condition of approval.*" (? – I think this was meant to be "terms" [conditions], as in the previous sentence, rather than "term" [length], but I could be wrong)
3. Page 4, full paragraph 4 "*The Zoning Administrator commented on the proposed changes to the draft resolution and instructed staff to correct the typographical error in Finding A2,...*"

Note: regarding the revision to Condition 18, I think the change was appropriate, but it occurred to me after the hearing that even if entry to the building and grounds will be by means of an electronic key system, in the event of power failure the system must have some kind of manual alternative using physical keys, and it is probably those physical keys that the Fire Department wants available on site in a device "such as" a Knox Box.

~~**Item 1. Via Koron Lot Line Adjustment (PA2013-119)**~~

1. Neither the staff report nor the proposed resolution provide the public with much clarity as to the whether there is a continuing problem with the other development on this block. In particular, the adjustment maps shown on the last two pages (handwritten 21 and 22) appear to show that after this action Lot 650 will be reduced to an unusably narrow fragment, and comparison with the aerial photo on handwritten page 14, suggests that between the present property and Strada Centre there are four numbered residential developments (120, 122, 126 and 130) on two and one-half legal lots (half of 650, 651, and 655).
 - a. Is the applicant the owner of all of legal lot 650? Or just a portion of it?